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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,767	01/10/2002	Mark Andrew Mattox	049322-0104	8331

22428 7590 07/31/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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Paper No. 13

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**JUL 31 2003**

**OFFICE OF PETITIONS**

In re Application of  
Mark Andrew Mattox  
Application No. 10/044,767  
Filed: January 10, 2002  
Attorney Docket No. 049322-0104

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.137(b) AND  
:NOTICE RESETTING PERIOD FOR  
:REPLY TO NONFINAL OFFICE  
:ACTION

This is a decision on the petition, filed June 26, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 14, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the Office of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 17, 2003, was mailed on April 11, 2003.

**There is no indication that a reply to the Final Office action of April 1, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the Final Office action of April 1, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.**

This application is being forwarded to Technology Center Art Unit 1746 to await a reply to the Final Office action of April 1, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Any inquiries concerning this decision may be directed to Andrea Smith at (703) 308-6711.



Andrea Smith  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



Frances Hicks  
Lead Petitions Examiner